

Internal Revenue Service
Advance Pricing Agreement Program Hearings
February 1, 2005 Session

Comments of Steven Wrappe

These comments are based on my firm's current involvement in over 50 APA cases. We intend to submit written comments following the next APA hearing on February 22, 2005.

Overall statement - We may be focusing on ways to improve the APA program, but the APA program is still the most principled and business-like forum available for taxpayers to develop and resolve transfer pricing issues.

Response to "similarly situated" questions – whether same line of business or even competing products, the function and risk analysis is geared to isolating differences and adjusting for those differences.

APA Program Accessibility- no problems overall

- Informality and ability to have no-name pre-filing make APA an extremely accessible process
- Relative cost of the APA program the largest obstacle for smaller taxpayers (see SBT comments below)
- Keep up APA staff "outreach" training

Timeliness and Efficiency

- More staff – down from 22 to 17 -- this can not help
- More travel budget -- current budget < \$60,000 is less than one case!
- Joint site visits – most efficient way to avoid factual misunderstanding
- Right-sized renewals – generally ok, but some renewals cost twice as much
- Consider geographic specialization of APA team leaders
- Improve coordination with Competent Authority
 - - coordinate APA/CA schedule from the outset
 - - pre-schedule CA to CA discussions to create expectations

Particular Industries

- Prefer cross-industry focus on specific tested party scenarios (e.g., distributor with operating margin PLI)

Sound Tax Administration

- Release “policies” (e.g., 5 - yr vs. 3 - yr comparable data)
- Release industry experience (e.g., Announcement 94-40)
- Use of range, rather than “Floor/Ceiling”
 - Follows the regs
 - Works better w other countries

Expand SBT APA—1 of 2 primary uses for an APA

1. resolve complex difficult cases
2. swift certainty for simple compliant taxpayers
 - Expand small transaction exception to \$100 million- focus should be on simplicity and size
 - Give specific responsibility within APA office to dedicated person/group- hopefully one with exposure to the annual reports
 - More standardized practices
 - submission structure- ordering and checklist
 - standardize time frame- already have this
 - create expectations of 1 meeting, 2 sets of questions
 - use substantive pre-filing to set expectations (share APA case experience)
 - Experiment with bilateral SBT APAs - other countries are interested
 - Goal: cost of SBT APA = cost of 5 yrs of documentation